

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF VETERINARY MEDICINE

In the Matter of
David M. Mills, D.V.M.
License No. 09274

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above-entitled matter came on for prehearing conference before Administrative Law Judge Steve M. Mihalchick commencing at 9:30 a.m. on October 23, 2001, at the Office of Administrative Hearings, 100 Washington Avenue South, Minneapolis, Minnesota.

Susan E. Damon, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55103-2131, appeared on behalf of the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Committee"). David M. Mills ("Respondent") did not appear at the hearing. The record closed on October 23, 2001, upon the Respondent's failure to appear.

NOTICE

This Report is a recommendation, not a final decision. The Board of Veterinary Medicine will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Roland Olson, D.V.M., Executive Director, Minnesota Board of Veterinary Medicine, Suite 540, 2829 University Avenue, S.E., Minneapolis, Minnesota 55414-3250, telephone (612) 617-2170, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether or not disciplinary action should be taken against the Respondent in accordance with Minn. Stat. §§ 156.081, and 156.127.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On September 5, 2001, a Notice of and Order for Prehearing Conference and Hearing in this matter was mailed to the Respondent by U.S. Mail and Certified Mail. Both of the copies of the Notice were mailed to the Respondent's last known address, 6506 North Avenue, Cleveland, WI 53015. The Committee received a return receipt from the certified mailing, bearing the signature of Dr. David Mills.^[1] The Notice of and Order for Prehearing Conference and Hearing scheduled the prehearing conference for October 23, 2001.

2. The Notice of and Order for Prehearing Conference and Hearing that was mailed to the Respondent's attorney contained the following statement:

If Respondent fails to appear without prior consent of administrative law judge at the prehearing conference in this matter, Respondent shall be deemed in default and the allegations or issues set forth herein may be taken as true or deemed proved without further evidence, and the Board may revoke and/or take other action against Respondent's license to practice veterinary medicine in the State of Minnesota, including imposition of an administrative penalty, as authorized by Minn. Stat. §§ 156.081 and 156.127.

3. The Respondent did not appear at the October 23, 2001, prehearing conference. No one appeared on behalf of the Respondent. The Respondent has not contacted the Administrative Law Judge regarding this matter.

4. The allegations set forth in the Notice of and Order for Prehearing Conference and Hearing are deemed proved and are hereby incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Board of Veterinary Medicine and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 14.50, 214.10 and 214.103.

2. The Respondent was given timely and proper notice of the Prehearing Conference in this matter.

3. The Minnesota Board of Veterinary Medicine has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rule 1400.6000 the Respondent is in default as a result of his failure to appear at the scheduled prehearing conference.

5. Under Minn. Rule 1400.6000 when a party defaults, the allegations and the issues set out in the Notice of and Order for Prehearing Conference and Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true and deemed proved.

6. Based upon the facts set out in the Notice of and Order for Prehearing Conference and Hearing, the Respondent has violated Minn. Stat. § 156.081, and is

subject to disciplinary action by the Minnesota Board of Veterinary Medicine under Minn. Stat. § 156.127.

7. An order by the Board prescribing disciplinary action against the Respondent is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: That disciplinary action be taken against the Veterinary Medicine License of David M. Mills by the Minnesota Board of Veterinary Medicine.

Dated this 1st day of November, 2001.

/s/ Steve M. Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Default.

NOTICE

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

^[1] Affidavit of Susan E. Damon, Exhibit A.